

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

UNITED STATES OF AMERICA

Plaintiff,

v.

CODY TWITCHELL,

Defendant.

Case No. 3:22-cr-00039-ART-CLB

JUDGE ANNE R. TRAUM ORDER  
REGARDING TRIAL

Table of Deadlines

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1. Trial. This case is scheduled for trial before the Honorable Anne R. Traum, United States District Judge, at Reno, Nevada, on the trial stack commencing on **January 10, 2023, at 9:30 a.m.** This is a two-week stack.

2. Courtroom Administrator. The Courtroom Administrator for Judge

1 Traum's chambers is Katie Sutherland. All documents referenced in this Order  
2 shall be emailed to Katie Sutherland at Katie\_Sutherland@nvd.uscourts.gov.

3 3. Calendar Call.

- 4 a. Counsel for all parties and all *pro se* parties must appear by  
5 Zoom on January 3, 2023 at 11:00 a.m. for Calendar Call.
- 6 b. Unless a defendant is appearing *pro se*, defendants will not be  
7 required to appear for Calendar Call unless the Court directs  
8 otherwise.
- 9 c. Counsel or *pro se* defendants will be excused from Calendar Call  
10 if, prior to the scheduled calendar call, a defendant's plea of  
11 guilty or nolo contendere has been accepted.
- 12 d. At the Calendar Call, all cases that remain to be tried will be  
13 ranked in order of priority with criminal cases taking priority  
14 over civil cases. Thereafter, unless the Court otherwise directs,  
15 the cases will be tried one after the other on 24 hours' notice  
16 from the Clerk.
- 17 e. After the Calendar Call, the Court will not grant a continuance  
18 to any party absent a showing of good cause.

19 4. Motions in Limine.

- 20 a. Motions in Limine must be filed as one consolidated motion, as  
21 opposed to numerous separate motions. Motions in Limine must  
22 be filed by December 13, 2022, which is 28 days before trial.
- 23 b. Motions filed after this established deadline will be considered  
24 only upon a showing of good cause.
- 25 c. Counsel are required to meet and confer on the issues raised in  
26 the Motion in Limine before filing the motion and must include a  
27 statement certifying compliance with this personal consultation  
28 requirement. LR 16-3(a).

- 1 d. Responses to Motions in Limine are due on December 20, 2022,  
2 which is 7 days after the motion deadline.

3 5. Status Hearings.

- 4 a. The Court may conduct a status conference prior to the  
5 scheduled Calendar Call.  
6 b. Any party who wishes to request a pretrial status conference  
7 must notify the Courtroom Administrator no later than two  
8 weeks before Calendar Call.  
9 c. If the Court is satisfied during the status conference that the  
10 case is ready for trial, the Court may vacate the Calendar Call.

11 6. Witnesses.

- 12 a. Counsel and *pro se* defendants must subpoena all witnesses for  
13 the time and trial date as listed above. Inasmuch as the cases  
14 will be tried in a trailing fashion, the subpoenas should contain  
15 a special instruction from counsel directing witnesses to contact  
16 counsel's office—not the Court—for further instructions prior to  
17 appearing for trial.  
18 b. Witnesses are not required to be present at the Calendar Call  
19 but must appear as subpoenaed.  
20 c. The government must provide a list of proposed case-in chief  
21 witnesses to the court and the defense no later than December  
22 20, 2022, which is 21 days before trial. Witness lists should  
23 reflect the anticipated order of witnesses.

24 7. Exhibits.

- 25 a. Unless a specific scheduling order has been adopted for the  
26 case, the government shall provide to defense its case-in-chief  
27 exhibits on December 20, 2022, which is 21 days before trial.  
28

- b. By December 23, 2022, the defense should provide its non-duplicative case-in-chief exhibits to the government.
- c. The parties shall file their list of case-in-chief exhibits on January 3, 2023, which is 7 days before trial. The parties should make efforts to not duplicate exhibits. The government must use numerals 1 through 499 to number its exhibits, and defense must use numerals 500 through 999.
- d. The Court uses the Jury Electronic Recording System (“JERS”). The parties must provide the Courtroom Administrator with electronic media (e.g., CD, thumb drive, or hard drive) that contain images of all the exhibits counsel intend to use, in a format specified by the memorandum attached to this order.
- e. The parties must also provide the Courtroom Administrator with exhibit lists in Microsoft Word file format.
- f. The parties must each provide two sets of physical binders of their exhibits on the day of trial: one set for the witness stand, and the other for Judge Traum.

8. Evidence Display Equipment.

- a. Counsel may use the Court’s evidence display equipment or their own display equipment.
- b. Counsel must contact the Courtroom Administrator if they wish to use evidence display equipment, either to reserve the Court’s equipment and practice using it or to arrange a time and date to set up counsel’s equipment before trial.

9. Jury Instructions.

- a. On or before December 27, 2022, which is 14 days before trial, the government shall file its proposed jury instructions and verdict form.

- b. The defense may file any proposed alternative or supplemental instructions and verdict form no later than January 3, 2023, which is 7 days before trial.
- c. For disputed instructions, the party disputing the instruction shall provide a brief argument for each disputed instruction.
- d. The government may file any supplemental instructions based on the defense filing no later than January 6, 2023, which is the Friday before trial.
- e. The parties shall make reasonable efforts to avoid duplication. Each party has the right to propose additional or modified instructions during the course of the trial. All jury instructions must include supporting authority. Any modifications of the Ninth Circuit Manual of Model Jury Instructions, or any other model instructions, must specifically state the modification made to the original source with the authority and argument supporting the modification.
- f. If the defense provides before trial an anticipated theory of defense instruction, that document may be filed *ex parte* and under seal and will be unsealed and served upon the government at the close of evidence, before jury instructions are finalized.
- g. Counsel must provide a copy of any proposed jury instruction in Microsoft Word file format to chambers by email to the Courtroom Administrator.

10. Voir Dire.

- a. On January 3, 2023, which is 7 days before trial, counsel or defendants appearing *pro se* must file all suggested voir dire questions to be asked of the jury panel by the Court and a list of

1                   voir dire questions that counsel intends to ask during attorney-  
2                   conducted voir dire.

- 3                   b. Counsel must provide a copy of the same in Microsoft Word  
4                   format to chambers by email to the Courtroom Administrator.
- 5                   c. The initial voir dire examination is done by the Court, using the  
6                   Court's general voir dire questions and may include the  
7                   suggested voir dire questions provided by counsel. The Court  
8                   will briefly describe the case to the panel, ask counsel to  
9                   introduce themselves and any clients present in court, and ask  
10                  counsel to read the lists of witnesses to be called. If counsel  
11                  cannot provide a list of their prospective witnesses to the jury  
12                  before trial, counsel may request an *ex parte* hearing.
- 13                  d. The Court will use questions to screen for hardship, familiarity  
14                  with the case, and witnesses, and for the purpose of discovering  
15                  any basis for challenge for cause and for the purpose of gaining  
16                  knowledge to enable an intelligent exercise of peremptory  
17                  challenges. The questions will be asked of the entire panel, and  
18                  any juror whose answer would be "yes" or "probably yes" is  
19                  asked to raise their hand. The Court and lawyers may make note  
20                  of that juror's number for possible follow up questions. The  
21                  Court will share its voir dire topics on the morning of trial so  
22                  that counsel can see which questions are included in the Court's  
23                  voir dire.
- 24                  e. When the Court has finished asking questions of the entire  
25                  panel, the Court will provide an opportunity for voir dire by the  
26                  lawyers. A voir dire examination may include general and  
27                  specific questioning of jurors and shall be conducted for the  
28                  purpose of discovering any basis for challenge for cause and for

1 the purpose of gaining knowledge to enable an intelligent  
2 exercise of peremptory challenges. Counsel for each side may  
3 ask questions of the entire panel, or individual jurors, or both.  
4 Each party is limited to 20 minutes.

5 11. Statement of the Case.

- 6 a. On January 3, 2023, which is 7 days before trial, counsel or  
7 parties appearing *pro se* must jointly file with the Clerk of the  
8 Court a brief joint statement of the case, no longer than one-half  
9 page, to be read to prospective jurors at the time of jury  
10 selection. Counsel must provide a copy of the same in Microsoft  
11 Word format to chambers by email to the Courtroom  
12 Administrator.
- 13 b. If the parties cannot agree on a joint statement, they must file  
14 separate statements of the Indictment, indicating which portions  
15 should be read to the jury, to satisfy this requirement.

16 12. Government's Trial Memorandum.

- 17 a. The government must submit its Trial Memorandum under seal  
18 on January 3, 2023, which is 7 days before trial, and must also  
19 provide a copy (marked confidential) to the Courtroom  
20 Administrator.
- 21 b. The Government's Trial Memorandum must be served on  
22 counsel for the defendant on the date trial commences and will  
23 be unsealed and filed by the Court at that time.

24 13. Trial Schedule.

- 25 a. Trial will generally begin at 9:30 a.m. and end at 4:30 p.m.  
26 However, parties should plan to be available between 8:30 and  
27 9:00 a.m. and after 4:30p.m. each day of trial to address matters  
28 outside the presence of the jury.

- 1           b. This standard trial schedule may be modified for good cause;  
2           however, requests should be submitted at Calendar Call or  
3           before the written trial schedule is issued to jurors.

4           14. Trial Judge. Although the cases that are on the trial stack are  
5 assigned to Judge Traum, the cases may proceed to trial before another Nevada  
6 district judge or a visiting district judge.

7           15. Unconscious Bias.

- 8           a. The Court will direct the Jury Administrator to show the  
9           Unconscious Bias Juror Video developed by the Western District  
10          of Washington to prospective jurors as part of their orientation  
11          before jury selection.  
12          b. Counsel may view the Western District of Washington's  
13          unconscious bias video at:  
14          <https://www.wawd.uscourts.gov/jury/unconscious-bias>.

15          16. Juror Names.

- 16          a. Juror names will be furnished to counsel for the parties on the  
17          Thursday before trial.  
18          b. Names of prospective jurors will be disclosed to the public or  
19          media only upon order of the court.  
20          c. A request for disclosure of prospective juror names must be  
21          made in writing and styled as a motion to the presiding judge.

22          17. Expedited or Daily Transcripts.

- 23          a. Any party that will require expedited or daily transcripts shall  
24          notify Donna Prather, Court Reporter via email at  
25          Donna\_Prather@nvd.uscourts.gov immediately upon receipt of  
26          this order.  
27          b. The court reporter will provide instructions with respect to  
28          expedited or daily transcripts. Failure to timely notify the court



1 reporter may result in an inability to provide expedited or daily  
2 transcripts.

3 18. Contact Person. All questions and information regarding the trial  
4 Calendar are to be directed to Katie Sutherland, Courtroom Administrator.

5  
6 DATED THIS 10<sup>th</sup> Day of November 2022.

7 

8 ANNE R. TRAUM  
9 UNITED STATES DISTRICT JUDGE